

entry and withdrawal of distilled spirits, see § 144.15 of this chapter.

(h) No merchandise manufactured in a bonded manufacturing warehouse may be withdrawn by a person other than the manufacturer either from the manufacturing warehouse or from a warehouse where the merchandise is stored awaiting direct exportation, unless an authorization of the manufacturer is endorsed on the face of the withdrawal, or the manufacturer previously and in writing has transferred the right of withdrawal.

(i) When spirits and wines are withdrawn for shipment to Puerto Rico under section 311, Tariff Act of 1930, as amended, the procedure outlined in § 7.1 of this chapter shall be followed.

(j) As proof of manufacture and exportation, the manufacturer, within 6 months from the date of demand by the port director, shall file in the case of each transaction or period of manufacture a statement certified by the warehouse proprietor showing the date and number of the bond, the quantity and identity of the dutiable or taxable merchandise used, and the quantity and description of the articles into which it has been manufactured, together with the quantities of any byproducts and waste produced. In the case of articles manufactured with the use of distilled spirits, the statement shall also be verified by the foreman or chemist of the factory and shall show the number of packages of spirits used, the marks and numbers, the number of wine, proof and taxable gallons, and the degree of proof.

(k) The same proofs of exportation shall be required as in the case of other warehouse withdrawals for exportation.

(l) When the fact of exportation of all the products has been established by such proofs and any byproducts and waste have been exported or released for consumption, the bond given by the manufacturer, or the charges against his bond, shall be canceled.

(m) Shortage, irregular delivery, and nondelivery occurring with respect to merchandise withdrawn from bonded manufacturing warehouse while it is

under transportation in bond shall be charged against the bonded carrier.

[28 FR 14763, Dec. 31, 1963, as amended by T.D. 73–62, 38 FR 5630, Mar. 2, 1973; T.D. 73–175, 38 FR 17446, July 2, 1973; T.D. 78–298, 43 FR 38382, Aug. 28, 1978; T.D. 80–271, 45 FR 75641, Nov. 17, 1980; T.D. 82–204, 47 FR 49373, Nov. 1, 1982; T.D. 84–213, 49 FR 41170, Oct. 19, 1984; T.D. 89–1, 53 FR 51254, Dec. 21, 1988; T.D. 95–81, 60 FR 52295, Oct. 6, 1995]

§ 19.16 [Reserved]

SMELTING AND REFINING WAREHOUSES

§ 19.17 Application to establish warehouse; bond.

(a) *Application.* Application for the bonding of a plant of a manufacturer engaged in the smelting or refining, or both, of metal-bearing materials as provided for in section 312, Tariff Act of 1930, as amended, to reduce the metal content thereof to an unwrought metal, or metal in the form of oxides or other compounds which are obtained directly from the treatment of the dutiable materials provided for in chapters 26 and 71 through 83, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), shall be made by the manufacturer, to the director of the port nearest in which such plant is situated, giving the location of the premises and setting forth the work proposed to be carried on therein.

(b) [Reserved]

(c) *Discontinuance.* At the request of the proprietor the bonded status of the warehouse may be discontinued at any time provided the port director approves such discontinuance and the proprietor complies with directions of the port director with respect to the disposition of merchandise which may remain in the warehouse. The number of warehouses covered by a blanket smelting and refining bond may be reduced by discontinuance without necessitating a new bond unless the proprietor so desires.

(d) Upon the importation at any seaboard or frontier port of the United States of metal-bearing materials in any form intended for a bonded smelting or refining warehouse situated at some other port of entry, they may be forwarded under an immediate transportation without appraisal entry.

(e) *Bond.* Upon the arrival of imported metal-bearing material in any form for the purpose of being smelted or refined, or both, in bond at a port where a bonded smelting or refining warehouse is established, it shall be entered for warehouse. A bond on Customs Form 301, containing the bond conditions set forth in §113.62 of this chapter shall be on file. The port director shall thereupon issue a permit to the inspector to send such metal bearing materials from the importing vessel or vehicle by designated bonded vessels or vehicles to the smelting and refining warehouse named in the entry.

(f) Bonded metal-bearing materials shall be kept separate and distinct from nonbonded material until they have been sampled and weighed. The proprietor shall maintain a report of sampling, weighing, and assay of each shipment of bonded materials received into the warehouse for 5 years after liquidation of the warehouse entry for shipment.

(g) *Statement of inventory and bond charges.* Where two or more smelting and refining warehouses are included under one blanket smelting and refining bond, an overall statement shall be filed by the principal named in the bond with each Field Director, Regulatory Audit, involved by the 28th of each month, showing the inventory as of the close of the preceding month, of all metals on hand at each plant covered by the blanket bond and the total of bonded charges for all plants. Each port director at whose port a plant or plants are located shall be responsible for the determination as to the correctness of the inventory report insofar as the amounts held at plants under his jurisdiction are concerned. All discrepancies which cannot be reconciled by the port director shall be reported to Headquarters, U.S. Customs Service. If Headquarters finds that the aggregate quantity of dutiable metal at the several plants does not equal the quantity charged against the blanket bond, du-

ties shall be collected for the quantity determined to be deficient.

[28 FR 14763, Dec. 31, 1963, as amended by T.D. 74-247, 39 FR 34650, Sept. 27, 1974; T.D. 82-204, 47 FR 49373, Nov. 1, 1982; T.D. 84-213, 49 FR 41170, Oct. 19, 1984; T.D. 89-1, 53 FR 51254, Dec. 21, 1988; T.D. 90-78, 55 FR 40166, Oct. 2, 1990; T.D. 95-99, 60 FR 62733, Dec. 7, 1995]

§19.18 Smelting and refining; allowance for wastage; withdrawal for consumption.

(a) Except where absolute deductions have been allowed in the liquidation of the entry for losses on copper, lead, and zinc content of metal-bearing materials, pursuant to Chapter 26, Additional U.S. Note 1, Harmonized Tariff Schedule of the United States (see §151.55 of this chapter), the actual percentage of losses by weight shall be allowed if more than 90 percent by weight of:

(1) The zinc content initially treated at any lead plant, (2) the copper content of the imported materials treated at any zinc plant, or (3) the copper, lead, or zinc content of the imported material initially treated at any plant other than a copper, lead, or zinc plant is lost in processing such materials. Such actual percentage of losses by weight of the metal content shall be that shown by the manufacturer's annual statement. Such losses shall be applied in the liquidation of the entry to materials entered for consumption or for warehouse, during a 12-month period beginning on the first day of the month nearest to 90 days after the close of the manufacturer's fiscal year immediately preceding such 90-day period, provided the importer makes claim therefor in writing at the time the merchandise is entered. No further wastage shall be allowed. The full dutiable contents of such metal-bearing materials, as ascertained by commercial assay made by the Government chemists, less the wastage allowance (including dutiable metals entirely lost in smelting or refining, or both), shall constitute the quantity of dutiable metal which must be either exported, duty-paid, or transferred to another